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10/525,281

02/17/2005

Francesco Muller

P/231-153

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EXAMINER

PHAN, THANH S

ART UNIT

PAPER NUMBER

2833

MAIL DATE

DELIVERY MODE

07/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/525,281 | Applicant(s) MULLER, FRANCESCO | |
| | Examiner THANH S. PHAN | Art Unit 2833 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 7, 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim [US 4,833,661] in view of Hysel et al. [US 5,323,363].

Regarding claims 1, 2, 9, Kim discloses an analogue display device [1] for a timepiece, comprising display means arranged to jump relative a dial having a non-sequential pattern of the value to be displayed, wherein the successive values to be displayed on the dial being indicated by a mechanism [M1-3] operable to drive the display means.

Kim disclose the claimed invention except for the successive value (or the hour indicia) to be displayed on the dial are offset by regular intervals of a certain number of successive positions in the non-sequential pattern of the values to be display, and wherein the mechanism are mechanical control.

It would have been obvious to modify Kim by having the hour indicia offset by regular intervals of a certain number of successive position since applicants have presented no explanation that this particular location of the stud is significant or is

anything more than one of numerous locations a person of ordinary skill in the art would find obvious for the purpose of providing a random-number dial for a timepiece. A shifting in location is generally recognizing as being within the level of ordinary skill in the art when the operation of the device would not thereby be modified. In re Japikse, 86 USPQ 70 (CCPA 1950).

Hysek et al. disclose an old and well known fact in the horology art wherein electronic, electromechanical and/or mechanical controlling mechanisms are used for performing the time telling function [figures 6-8].

Since Kim and Hysek et al. are both from the same field of endeavor, the purpose disclosed by Hysek et al. would have been recognized in the pertinent art of Kim.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Kim's invention by using a mechanically design as the controlling mechanism for the purpose of having a timepiece without/minimal dependence upon an electrical providing source.

Regarding claim 3, Kim discloses a device wherein the dial displays the time by means of hands [2,3 and 4].

Regarding claims 4 and 5, Kim discloses the claimed invention except for wherein the display means are discs placed underneath the dial and the dial has cut-cuts to reveal the values displayed on the discs.

Hysek et al. disclose a timepiece wherein the dial [1] comprises cut-outs [windows 5 and 7] to reveal information displayed on rotational discs [6, 10] place

underneath.

Since Kim and Hysek et al. are both from the same field of endeavor, the purpose disclosed by Hysek et al. would have been recognized in the pertinent art of Kim.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the teachings of Hysek et al. with Kim for the purpose of presenting additional information on a timepiece.

Regarding claim 6, Kim discloses a device wherein the values to be displayed are selected from the group comprising hours and minutes, dates, names of days, weeks, and phases of the moon [hours and minutes; abstract].

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim and Hysek et al. in view of Vaucher [US 5,432,759].

Regarding claim 10, Kim and Hysek et al. disclose the claimed invention except for wherein the dial having 31 indications (as in the days of the month) instead of 12 (hours), and the offset is 13 successive positions.

Vaucher teaches a timepiece wherein the dial comprising 31 indications for indicating days of the month.

Since Kim, as modified, and Vaucher are both from the same field of endeavor, the purpose disclosed by Vaucher would have been recognized in the pertinent art of Kim, as modified.

It would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify the timepiece of Kim, as modified, to have 31 indications on the dial as taught by Vaucher for the purpose of indicating the days of the month. Since Kim teaches the random-ness of the indications on the dial, one of ordinary skill in the art would have been motivated to have the indications at a desired offset value such as 13.

Allowable Subject Matter

4. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 04/02/08 have been fully considered but they are not persuasive. Regarding claim 1, applicant has not defined what the successive values are or what is considered as non-sequential pattern is. The values clearly are offset as illustrated in figure 1. Applicant has not clarified any specific order or disorder of the values. Furthermore, applicant has not claimed any specific structural limitations. Applicant merely claimed a display means, a dial and a mechanical control mechanism in which Kim and Hysel disclosed as such. Regarding claims 2-6, 9 and 10, since these claims depend on claim 1 and the applicant fails to specifically point out how the

language of the claims patentably differentiates themselves from the applied art and thus the rejection is repeated.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh S. Phan whose telephone number is 571-272-2109. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2833

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thanh S. Phan
AU 2833

/Edwin A. León/
Primary Examiner of AU 2833
for Thanh S. Phan, Examiner of Art Unit 2833